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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,044	11/16/2001	Tsutomu Uenoyama	34168	4449
116	7590	12/16/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			SEFI, BEHROOZ M	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/992,044	UENOYAMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Behrooz Senfi	2613	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-13,15-20,22 and 23 is/are rejected.
- 7) ☒ Claim(s) 7,14 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2613

## DETAILED ACTION

### *Response to Amendment*

1. Applicant amendments filed Jun. 21, 2004 canceled claim 1 and added new claims 22 and 23.

Applicant's arguments filed 6/21/2004 have been fully considered but they are not persuasive.

Response to remarks:

Applicant asserts (page 11 of remarks) that the reference fails to teach "calculating correction code amount ..... and also fails to teach the amount of codes be variable .....".

In response; Examiner respectfully disagrees, Sugahara '687 discloses (i.e. figs 4 – 5, page 6, section 0062) the VLC for variable coding and also fig. 5 shows calculation of the correction code amount.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2613

3. Claims 22, 23, 3 – 6, 8, 10 – 13, 15 and 17 – 20, are rejected under 35 U.S.C. 102(e) as being anticipated Sugahara et al (US 2003/0154687) or (US 6,567,554).

Regarding claims 22 and 8, Sugahara '687 discloses, "picture coding Method ....." (i.e. fig. 4, abstract), and "reference coding frame rate" (i.e. pages 6 and 9, sections 0062, 0114 and 0115), and "providing a predetermined target code amount of a coded picture to be stored in buffer" (i.e. figs. 4 - 5, page 8, section 0097) and "calculating a substantially constant reference target code amount from the reference coding frame" (i.e. fig. 5, pages 4 and 6, sections 0062, 0041) and "buffer remaining amount" (i.e. fig. 4, buffer 6), and "calculate a correction value ....." (i.e. fig. 5, calculating the correction value), and "calculating an allocation code amount for every picture to be coded ....." (i.e. fig. 5).

Regarding claim 23, the claimed "calculated target code amount is used to maintain the actual coded amount stored in the buffer near the predetermined target code amount" reads on (i.e. fig. 8, target amount of cod calculation, which is clear that the purpose of having target amount of code is encode and maintain the actual coded amount near the target code amount).

Regarding claims 3, 10 and 17, Sugahara '687 discloses, "predetermined target code amount is determined based upon the reference target code amount" (page 15, sections 0190 and 0193).

Art Unit: 2613

Regarding claims 4, 11 and 18, Sugahara '687 discloses, "frame rate of input picture is measured and reference coding frame rate is determined based on the measured frame rate" (page 9, sections 0114 and 0115).

Regarding claims 5, 12 and 19, the limitations claimed, "reference frame rate is determined based upon a maximum value of the measured frame rate" reads on (page 17, section 0209).

Regarding claims 6, 13 and 20, the limitations claimed, "reference frame rate is determined based upon an average value" reads on (page 13, section 0160)

Regarding claim 15, the limitations claimed are substantially similar to claims 22 and 8, therefore the grounds for rejecting claims 22 and 8, also apply here.

#### Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 9 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugahara in view of Chujoh et al (US5,416,521).

Regarding claim 2, Sugahara '687 teaches, "picture coding method and apparatus calculating target code amount" (i.e. fig. 4, abstract), and "the target code amount of the picture to be coded is calculated by adding a correction

Art Unit: 2613

amount to a reference target code amount which is approximately constant and reference target code amount is calculated from a reference coding frame rate” (i.e. page 4 and 6, sections 0062 and 0041). Sugahara ‘687 fails to explicitly teach the claimed “frame skipping”. However the above feature is well known and used in the art as evidenced by Chujoh ‘521 (fig. 5, frame skipping decision making unit 16). Therefore, taking the combined teaching of Sugahara ‘687 and Chujoh ‘521 as a whole, it would have been obvious to modify the video coding apparatus of Sugahara with frame skipping decision making as taught by Chujoh (col. 5, lines 34 – 43 and col. 8, lines 16 – 25) to maximize the coding performance without picture degradation.

Regarding claims 9 and 16, the limitations claimed are substantially the same as claim 2, therefore the grounds for rejecting claim 2 also apply here.

#### ***Allowable Subject Matter***

6. Claims 7, 14 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

Art Unit: 2613

action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is **(703)305-0132**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal

Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Art Unit: 2613

B. S. B. S.

12/11/2004

ANDY RAO  
PRIMARY EXAMINER

